

**§ 136-28.6. Participation by the Department of Transportation with private developers.**

(a) The Department of Transportation may participate in private engineering and construction contracts for State transportation systems.

(b) In order to qualify for State participation, the project must be:

- (1) The construction of a transportation project on the Transportation Improvement Plan adopted by the Department of Transportation; or
- (2) The construction of a transportation project on a mutually adopted transportation plan that is designated a Department of Transportation responsibility.

(c) Only those projects in which the right-of-way is furnished without cost to the Department of Transportation are eligible.

(d) The Department's participation shall be limited to fifty percent (50%) of the amount of any engineering contract and/or any construction contract let for the project.

(e) Department of Transportation participation in the contracts shall be limited to cost associated with normal practices of the Department of Transportation.

(f) Plans for the project must meet Department of Transportation standards and shall be approved by the Department of Transportation.

(g) Projects shall be constructed in accordance with the plans and specifications approved by the Department of Transportation.

(h) The Secretary shall report in writing, on an annual basis, to the Joint Legislative Transportation Oversight Committee on all agreements entered into between a private developer and the Department of Transportation for participation in private engineering and construction contracts under this section, as well as (i) agreements by counties and municipalities to participate in private engineering and construction contracts under subsection (i) of this section and (ii) pass-through funding from private developers to counties or municipalities for State transportation projects. The information in the report required by this subsection shall be set forth separately for each division of the Department of Transportation.

(i) Counties and municipalities may participate financially in private engineering, land acquisition, and construction contracts for transportation projects which meet the requirements of subsection (b) of this section within their jurisdiction.

(j) The Department is authorized to create a statewide pilot program for participation in cost-sharing for transportation improvements in connection with driveway permits. The Department may create a fair share allocation formula and other procedures to facilitate the pilot program. The formula shall uniformly determine the value of transportation improvements and apportion these costs, on a project-by-project basis, among applicable parties, including the Department and private property developers. Transportation improvement projects developed under the pilot program may include the provision of ingress and egress to new private development prior to acceptance of the improved portion of the roads constructed providing access to the development by the State or local government for maintenance as a public street or highway. Nothing in this section shall require a private developer to participate in the pilot program to obtain a driveway permit or other approval from the Department or any local government.

(k) Nothing in this section shall obligate the Department to custodial responsibility for managing or distributing monies in the application of this program.

(l) The Department shall report on the pilot program to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division of the Legislative Services Commission no later than the convening date of the 2021 Regular Session of the General Assembly. (1987, c. 860, ss. 1, 2; 1989, c. 749, s. 1; 1991, c. 272, s. 1; 1993, c. 183, s. 1; 1995, c. 358, s. 5; c. 437, s. 3; c. 447, ss. 1, 2; 2002-170, s. 1; 2008-164, s. 2; 2009-266, s. 14; 2013-245, s. 1; 2014-100, s. 34.2; 2015-241, s. 29.12(e).)